FIRST ENGROSSMENT

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2252

Introduced by

Senators Krauter, T. Mathern, Kringstad

Representatives Thorpe, Nottestad, Gulleson

1   A BILL for an Act to amend and reenact paragraph 5 of subdivision d of subsection 1 of section

2   57-38-01.2 and subsection 5 of section 57-38-30.3 of the North Dakota Century Code, relating

3   to income tax deductions or credits for adoption expenses; and to provide an effective date.

4   **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5   **SECTION 1. AMENDMENT.** Paragraph 5 of subdivision d of subsection 1 of section

6   57-38-01.2 of the North Dakota Century Code is amended and reenacted as follows:

7   (5)   Reduced by ~~one~~ up to two thousand five hundred dollars of expenses

8   incurred by the taxpayer which are not reimbursed by any federal,

9   state, or political subdivision source, for each special needs child under

10   the age of ~~twenty-one~~ eighteen years adopted by the taxpayer. For

11   purposes of this paragraph, a "special needs child" is a child who has

12   any of the special needs described in section 50-09-02.2. The

13   reduction under this paragraph may be claimed only by an adoptive

14   parent of an adopted special needs child and the child must qualify as

15   a dependent of the adoptive parent for federal income tax purposes.

16   The reduction may be claimed by only one spouse, for spouses filing

17   separately under this chapter. The reduction provided by this

18   paragraph may be claimed ~~only~~ for the taxable year in which the

19   adoption becomes final and ~~the~~ any unused portion of the reduction

20   may be carried forward by the taxpayer for up to five taxable years.

21   The reduction does not apply to the adoption of children of the

22   taxpayer's spouse.

23   **SECTION 2. AMENDMENT.** Subsection 5 of section 57-38-30.3 of the North Dakota

24   Century Code is amended and reenacted as follows:

1   5.   For purposes of this section, "federal income tax liability" means the individual's,

2   estate's, or trust's federal income tax computed for the taxable year under Internal

3   Revenue Code sections 1 and 3, relating to the computation of the regular federal

4   income tax before credits, including calculation and tax rate modifications

5   prescribed under other provisions of the Internal Revenue Code, adjusted as

6   follows:

7   a.   Add the alternative minimum tax computed under Internal Revenue Code

8   section 55;

9   b.   Add the tax on a lump sum distribution computed under Internal Revenue

10   Code section 402; however, this adjustment does not apply if the lump sum

11   distribution is received while a nonresident of this state and is exempt from

12   taxation by this state under federal law;

13   c.   Add the tax on an accumulation distribution of a trust computed under Internal

14   Revenue Code section 667;

15   d.   Add the tax computed under Internal Revenue Code section 72(m)(5) on

16   excess benefits received from a qualified plan under Internal Revenue Code

17   section 401(a) or a qualified annuity under Internal Revenue Code section

18   403(a);

19   e.   Add the tax computed under Internal Revenue Code section 72(q)(1) on an

20   early distribution from an annuity contract;

21   f.   Add the tax computed under Internal Revenue Code section 72(t)(1) on an

22   early distribution from a qualified retirement plan;

23   g.   Add the tax computed under Internal Revenue Code section 4973(a) on

24   excess contributions to an individual retirement account, medical savings

25   account, and certain Internal Revenue Code section 403(b) and annuity

26   contracts; however, this adjustment does not apply if the individual, estate, or

27   trust is a nonresident of this state;

28   h.   Add the tax computed under Internal Revenue Code section 4974(a) on

29   excess accumulations in a qualified retirement plan; however, this adjustment

30   does not apply if the individual, estate, or trust is a nonresident of this state;

1   i.   Add the tax computed under Internal Revenue Code section 4980A on

2   excess distributions from a qualified retirement plan; and

3   j.   Subtract the credit for prior year minimum tax computed under Internal

4   Revenue Code section 53; and

5   k.   Subtract the credit for qualified adoption expenses computed under Internal

6   Revenue Code section 23, but not in an amount exceeding two thousand five

7   hundred dollars.

8   Unless specifically provided for in this subsection, no federal income tax credit may

9   be subtracted in determining the federal income tax liability for purposes of this

10   section.

11   **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after

12 December 31, 2000.